

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JENNIFER BRADLEY,

Plaintiff,

v.

AMERICAN UNIVERSITY, ET AL.,

Defendants.

Civil Action No. 1:16-cv-00346-RBW

**PLAINTIFF'S OPPOSITION TO DEFENDANT NCAA'S MOTION FOR SUMMARY
JUDGMENT AND CROSS-MOTION FOR SUMMARY JUDGMENT PERTAINING TO
DEFENDANT NCAA'S AFFIRMATIVE DEFENSES.**

COMES NOW Plaintiff, by and through undersigned counsel, and respectfully submits to this Honorable Court her Opposition to Defendant NCAA's Motion for Summary Judgment and Cross-Motion for Summary Judgment Pertaining to Defendant NCAA's Affirmative Defenses. In support thereto, Plaintiff states the following in Opposition to Defendant NCAA's Motion and in support of her motion and relies upon the accompanying Memorandum of Points and Authorities:

1. Defendant NCAA's was under a duty to educate, monitor, regulate, and police its member institutions, specifically with regard to the implementation of the concussion management plan.
2. Defendant NCAA's acknowledgement that proper implementation of a concussion management plan required that any student-athlete suspected of a concussion be placed in the concussion management plan and Mr. Dash's testimony that Defendant American University did not- and still does not- place any student-athletes into the concussion management plan without a confirmed diagnosis supports the claim that Defendant NCAA breached its duties to monitor, regulate, and police its member institutions.
3. Plaintiff's specific reliance upon the NCAA's duty was reasonable.
4. Plaintiff's injuries were foreseeable injuries of the NCAA's breaches of its duties.

5. Defendants have failed to produce any facts or evidence to support the numerous affirmative defenses asserted. To the extent that they have failed to proffer any such evidence for the vast majority of the asserted defenses, such defenses should be considered waived and dismissed.
6. With regard to the affirmative defenses of assumption of the risk and contributory negligence, even assuming all facts and inferences in light most favorable to the non-moving parties, the Defendants have still failed to meet their burden of proof.
7. Defendant NCAA has expressly waived any claim to assert a defense of assumption of the risk.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of November, 2019, a true copy of the foregoing ECF File

System was provided via the Court's ECF system to:

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